

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 860 of 2020**

Ravishanker Sahu , Aged about – 30 years, S/o- Rameshwar Sahu,
R/o- Sanjaypara, Tahsil and Thana Bhanupratappur, District- Uttar
Bastar Kanker (C.G.) **----- Appellant**

Versus

The State of Chhattisgarh, Through Police Station Lohattar, District-
Uttar Bastar Kanker (C.G.) **----- Respondent**

For appellant : Shri Parag Kotecha, Advocate
For Respondent/State : Dr.(Ms.) Veena Nair, Dy.A.G.

Hon'ble Justice Shri Gautam Chourdiya**Order on Board****13.01.2021**

1. This appeal by the accused/appellant under Section 14 A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is directed against the order dated 16.07.2020 passed by the Special Judge (SC/ST Act), Uttar Bastar Kanker (C.G.) in Crime No. 05/2020 refusing to allow his regular bail under Section 439 of Cr.P.C. for the offence punishable under Section 376 (2) (n), 450 of IPC and Section 3 (1) (ब), 3 (2) (V-क) and Section 3 (2) (V) of the SC/ST Act, registered at Police Station- Lohattar, District- Uttar Bastar Kanker (C.G.). The appellant is in jail since 21.05.2020.
2. Allegation against the present appellant is that he had repeated sexual intercourse with the prosecutrix, a member of Scheduled Tribes category on the pretext of marriage, subsequently he refused to perform with her.
3. Learned counsel for the appellant submits that the appellant is

an innocent person and has been falsely implicated in this case. The prosecutrix is major married lady of 32 years and she was having affair with the appellant from September, 2019 till May, 2020 and that she was a consenting party to the act of the party. The appellant is in jail since 21.05.2020 and charge-sheet has already been filed and that the appellant has no criminal antecedents and conclusion of the trial is likely to take some time, therefore, at this stage, he may be granted bail.

4. On the other hand, learned State Counsel opposes prayer for grant of bail and submits that prima facie case is made out against the appellant because on the pretext of marriage the present appellant made forcible physical relation with the prosecutrix. Learned State counsel submits that the appellant has no criminal antecedents.
5. Though the prosecutrix has been duly served with the notice, neither she is present in person nor is there any representation on her behalf. Photocopy of service report has been submitted today before this Court by the learned State counsel and the same is taken on record.
6. Having considered the submission made by learned counsel for the parties, age of the prosecutrix who is 32 years grown up married lady, there was physical relation between the present appellant and the prosecutrix since September, 2019 to May, 2020, detention period of the appellant and the fact that the appellant has no criminal antecedents as admitted by both the counsel and conclusion of the trial is likely to take some time, therefore, the appeal is allowed. It is directed that in the event of the appellant executing a personal bond for a sum of Rs.50,000/- with two sureties of Rs. 25,000/- each to the satisfaction of the concerned Trial Court, he shall be released on bail on following conditions:-

(a) he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such fact to the Court.

(b) he shall not act in any manner which will be prejudicial to fair and expeditious trial, and

(c) he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

(d) he shall not involve himself in any offence of similar nature in future.

Sd/-

(Gautam Chourdiya)
Judge

Nadim